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New laws and attitudes spark a war

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BODY:

Sirio Maccioni, owner of Manhattan's elegant Le Cirque, is in a state. A suave restaurateur who prides himself on his ability to solve any crisis with aplomb, Maccioni caters to high-profile customers who think nothing of dropping \$100 for lunch. For him, no whim is too outrageous to be cosseted, no ego too blatant to be stroked. But last week Maccioni faced an uproar that rattled even his finesse. Some of his most faithful customers were annoyed. His reservation book was a jumble. Phone callers adopted a threatening tone. The problem: New York City's new Clean Indoor Air Act had come to Le Cirque, and for the restaurant's denizens, as for millions of other New Yorkers, life would never be the same again.

The new law requires that half the tables in restaurants with more than 50 seats be reserved for nonsmokers. Maccioni was already agonizing over the nightmares that lay ahead. "One of my regular customers comes in and says, 'Why can't I have my table? I have had that table for 15 years.' I reply that he and his guests are smokers and their table is now in the nonsmoking section." Or worse: "I give Donald Trump his table in the nonsmoking section, and one of his guests lights up. Those at the next table jump up and say, 'If you don't make him stop, I'll call the police.' "

The new legislation also restricts smoking in stores, theaters, hospitals, offices, museums, banks and virtually all other enclosed public places. It is a pitiless law, leaving many smokers few havens except for parking lots and the airless privacy of their own apartment. No sooner had it taken effect than reports began circulating of two commuters pummeling a recalcitrant smoker at a train station, of a business executive trying self-hypnosis to make it through the day at work, of mass defiance at the city's smoke-filled Offtrack Betting offices. Yet, predicts New York Mayor Ed Koch, the city will scarcely have to enforce the ban; New Yorkers will take care of that themselves. "This is going to be one of the best self-enforced laws in the country," says Koch, who has not smoked since 1952. "There is no one more enraged than a nonsmoker forced to take in secondhand smoke." Unfortunately, that rage inevitably clashes with the rage of the smoker determined to enjoy firsthand smoke. All in all, the law promises to play further havoc in a city not known for the civility of its communal life.

New York thus becomes the latest battlefield in a war that has been raging in the U.S. for some time. All across the country, in large towns and small, in the skies, the offices, the courts, in every cranny of common space, Americans are fighting over where, when and whether a smoker may smoke. Even in their homes,

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where new laws do not apply, new attitudes do: children threaten to withhold good-night kisses from smoky parents, spouses are exiled to the garage. Fumes Ray Cahoon, 53, a computer specialist in Woodlawn, Md.: "It's gotten to the point where the smoker has no rights at all." Some 26% of American adults now smoke, down from 38% thirty years ago. But if smokers are becoming a minority, they are an increasingly belligerent one. Even those who would like very much to quit want to do so in their own sweet time -- not under a legal gun. They are sick of having glasses of water dumped on their ashtrays or ashtrays dumped on their beds. "The antismoking movement has to do with power lust," argues Paul Corkery, a New York free-lance journalist partial to cigars. "It is a movement that brings out the worst in the worst sort of people."

The worst sort of people in this case includes the U.S. Surgeon General, Congress, hundreds of municipalities, most of the nation's corporations and millions of newly militant nonsmokers who have joined in a campaign to clear the air. Forty-two states have passed laws restricting smoking in public places. Maine has removed cigarette-vending machines from sites where teenagers might have easy access. Utah forbids cigarette ads on billboards, while California has banned smoking on trains, buses and planes traveling within the state.

The new rules are sparking explosive confrontations on all fronts. The most combustible atmosphere of all is the workplace, where smokers and nonsmokers have grated on each other for years. Signs on office walls that used to smile THANK YOU FOR NOT SMOKING now growl IF YOU SMOKE, DON'T EXHALE. As more and more firms impose tough regulations, millions of smokers are being forced to choose among quitting, hiding, and moving their desk to the rest room. More than half of America's companies have now restricted smoking at work. Some ban it altogether; others, such as Turner Broadcasting in Atlanta and Northern Life Insurance in Seattle, simply refuse to hire smokers. Most require that common areas -- open office space, hallways, lounges, conference rooms and rest rooms -- be smoke free.

Employees in the ceiling-products division of Chicago's USG Interiors have been told they may not smoke at home either. Such broad restraints strike some as intrusive: "If you want to regulate my life for 24 hours," observes Chicago Labor Lawyer Marvin Gittler, "pay me for the 24 hours or get the hell out of my life."

Some smokers must go to extremes to indulge their habit while keeping their job. At Methodist Hospital in suburban Minneapolis, a worker stepped out onto a second-floor balcony to smoke, despite the frigid temperature. When the door accidentally locked behind her, she jumped to the ground, broke a foot in two places and fractured a wrist. On that very day, the first of a smoking ban, the employees' union had filed a grievance against the hospital for not providing a smoking lounge for workers.

In many companies, the battle lines are drawn between the factory floor and the executive suite. Though workers in open areas must abide by the new rules, anyone with an office door to shut may puff away to his heart's content -- though, ironically, relatively few high-ranking professionals do so. According to Donald Garner, an expert in liability law at Southern Illinois University, only 25% of white-collar workers smoke, compared with 50% of blue-collar workers. "This, in a sense, has put over on the nonsmokers' side an enormous reservoir of talent and social prestige that was not there 25 years ago," he says. "Now that the chairman and the CEO aren't smokers, they've become

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instigators of the nonsmoking workplace."

Company officials responsible for enforcing the restrictions do not relish the task. "Nobody thanks you for putting in a smoking ban," says John Bowyer, a personnel director in Charleston, W. Va. When Bowyer learned that smokers at his company were sneaking off into nearby offices, "I went over with a fire extinguisher and dropped a rather strong hint." If all else fails, employers may be forced to take stronger measures. Judy Caron, a social worker at the state welfare department office in Attleboro, Mass., was dismissed in February for insubordination after a five-year battle over her smoking, during which her legal fees were paid by the Tobacco Institute, an industry group. "I never smoked with clients," she insists, "and I could no longer enjoy a cigarette at my desk." She resented having to give up her private office and smoke in the company kitchen when the department ran out of space. Now at home in Easton, Mass., she has hired new lawyers to fight for reinstatement.

In many cases, of course, the response has been much less rancorous. Some workers welcome the added incentive to quit smoking and feel that employers are taking a reasoned and sympathetic approach to their plight. Many companies pay all or part of the costs of cessation programs, hypnosis therapy, special classes and self-help kits. Most of them have discovered that they have a lot to gain from helping employees kick the habit. "They will be healthier, their attendance will be better, and this will keep medical costs down," says Arthur Hilsinger, owner of a 100-worker optical-accessories company in Plainville, Mass.

Even while getting to and from work, smokers increasingly find no relief. On the Golden Gate ferries, which carry thousands of commuters across San Francisco Bay each rush hour, passengers who used to be allowed to smoke on one side of the bar area now duck outside to the windswept decks when ferry personnel look the other way.

That option, however, is not available to nervous flyers who need to smoke to calm their nerves. Beginning next week, a federal ban will prohibit smoking on scheduled flights lasting two hours or less. At the same time, Northwest Airlines will become the first major U.S. carrier to keep its NO SMOKING signs permanently lighted on all domestic flights of whatever duration. A survey of hundreds of its frequent flyers showed that 90% prefer a no-smoking seat. Passengers argue that after being aboard an airliner for a few hours everyone in effect is seated in the smoking section; even passengers seated far forward sometimes complain of headaches and watery eyes and blame the limited air circulation in airline cabins.

Having long been segregated on scheduled flights, smokers are indignant about the outright ban. "I think it's discriminatory," says John Collins, a Los Angeles telecommunications contractor and frequent flyer. "First they put all us smokers way in the back of the plane. We took that O.K. But now they tell us that we can't smoke at all. The whole thing has been aggravating as hell, especially when I can remember when you used to get on a plane and the stewardesses were handing out five-packs of cigarettes."

As for the countless other public battlegrounds -- store lines clogged with puffing shoppers, taxicabs, hotel lobbies, hospitals and sports arenas -- the friction level depends largely on how vigorously and graciously people go about policing their fellow citizens. Employers, after all, have far more leverage

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over their workers, and airlines over their passengers, than citizens do over one another. Who is really going to enforce the regulations, apart from those who have always been willing to pipe up and demand that a smoker crush out a cigarette? "Usually it's older women who are more aggressive," jokes South Dakota State Representative Gust Kundert, 74, who smokes a pack a day. "They get a little sarcastic with me. They figure I can't pop them one."

On the other hand, officials in some of the hundreds of cities that have passed antismoking ordinances of various descriptions have been surprised at the calmness of the citizen response. "I anticipated more argumentative confrontations among people in lines at banks and supermarket check-out counters," says City Manager Robert Healy of Cambridge, Mass., where smoking restrictions went into effect a year ago, "but so far we have had very little quarreling." And this without an official show of force. "We don't have police cruisers going around with water pistols trying to shoot out people's cigarettes."

But in other cities where nerves are still raw, the worst may be yet to come. As last week's events at Le Cirque proved, no turf is touchier than a restaurant table. Some people can no more dine out without smoking than eat without chewing, and for them any restaurant restrictions are excruciating. Most laws call for separate smoking and nonsmoking sections in all restaurants, though not in bars. "I'm constantly changing seats to enjoy a cigarette after dinner," says Graphic Designer Toni Carabillo of Los Angeles, whose friends insist that she remain downwind. "It's hell to be a smoker these days, because we all have to be so sensitive to nonsmokers." Nothing is more embarrassing to Journalist Corkery than "when someone in my party walks over and tells other people to stop smoking or spends most of the dinner conversation fussing about whether to go and badger smokers to stop."

Last spring, when Beverly Hills attempted to outlaw all restaurant smoking, some irate owners reported a 30% drop in business. The city council finally agreed that if restaurants installed special ventilation, they could set aside a smoking section. Yet some owners in other cities declare they would prefer an outright ban to arbitrating disputes among patrons. "Then I wouldn't have to be an enforcer," says Ray Cronauer, manager of Joe Allen and Orso in New York's theater district. Cronauer would not think of calling the police if someone lighted up in the wrong section: "Can you imagine them coming in here and handcuffing a smoker and then taking him out past the heroin addicts shooting up in the street?"

Enforcement may actually be a bit more effective within the privacy of people's homes, where so many ingenious weapons are available to ruthless antismokers. Inspired by the change of mood all around them, many Americans who once refrained from pressing loved ones to quit have laid down some laws of their own. Rosemarie Gran, a museum receptionist in Seattle, has banished her husband John to the back patio for his morning coffee and cigarette. When he comes back inside, the burly, 6-ft. shipyard foreman washes his hands, runs a Baby Wipe across his mustache and only then gives Rosemarie a good-morning kiss.

Gran admits he would rather smoke at the dining-room table, but he knows the law: the patio is the only designated smoking area in his household. "It's really tough, and it irks me sometimes," he says. "But I've realized that as a smoker, I'm low on the totem pole right now. So I'm the one doing the accommodating."

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Children of smokers often make the most relentless adversaries. Packs of cigarettes disappear mysteriously, and candy ones appear in their place. "My kids have been on my case for years," says Lawyer Paul Migdal of Marina del Rey, Calif. When his daughters were six and four years old, they presented him with a shadow box: scattered among the compartments were a cigarette, a skull and crossbones, and a little Superman figure with the caption "You're a super dad if you don't smoke." It still took Migdal more than a decade to quit, with his daughters -- by then living away from home -- cheering him on through daily cards and long-distance telephone calls. "I quit because I was tired of being an outsider, of being in this new minority group," Migdal says. "But the reason I know I won't start again is that I'd be afraid to have to tell my kids that I had another cigarette."

Among friends and lovers too, the peer pressure to quit smoking is heating up. Sharon Gary, 29, a nurse from Marina del Rey, finds the men she dates less tolerant than before. "If I go out to dinner with someone, I always ask if it's O.K. to smoke, and I've learned to expect that the answer will be no." Companions on a sailing trip threatened to throw her cigarettes overboard. "Eventually you've been insulted so much that you just stop caring about being polite," she says. "People make you feel like you've got some filthy habit."

That attitude certainly reigns in some precincts of the singles scene, particularly those frequented by sweet-breathed, clear-eyed yuppies who jog at dawn to keep their lungs pink. "When I go to bars with a group of girls, we sneak out to the parking lot to have a cigarette because we don't want guys to see us smoking," says Cynthia Ferguson, 26, a newspaper-advertising executive from Pasadena, Calif. "It's got to the point that whether someone will go out with you can depend on whether or not you smoke." Some have even made willpower a precondition for matrimony. Laurie Panek, a former probation officer who lives in Atlanta, fell in love with an adamant nonsmoker. "He told me the day I quit would be the day we would be together," she says. "He didn't want to see me ruin my health. I was more or less humiliated into it."

High school and junior high students are the most susceptible of all to the lure of cigarettes, which seem to them an emblem of adulthood. Most smokers start before age 19, 60% by 14. But while more than a quarter of all high school seniors smoked a decade ago, the figure is now around 18% and falling. "The whole thing is turning around," maintains Anne Keppler, 42, a secretary at Pioneer High School in Ann Arbor, Mich. "When we were growing up, anyone who was anybody smoked. Now the nonsmoking kids, who are the vast majority, look down on the kids who do. They're the outsiders. They're the burnouts."

Though the odds are running against them, embattled smokers retain some powerful allies. Tobacco companies continue to fight back through well-funded promotional campaigns, congressional lobbying and in the courts, where they have yet to lose a liability case. Civil libertarians are taking up the fight against antismoking laws, which they see as an infringement of personal freedom. As more and more people are forced to take sides, the rhetoric tends to become more divisive. "It won't just be smoker vs. nonsmoker," predicts Law Professor Garner. "If the tobacco industry is successful, it will be along class lines, white vs. black, majority vs. minority."

Some people who have managed to quit are standing by their former fellow puffers. Sharon Fischer, controller of a medical-journal publishing company in New York City, smoked three packs a day for 30 years until she gave it up two

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years ago. But she was stubborn about her rights then and is stubborn now. "When I smoked, I wouldn't put my cigarette out," she says. "If I was in a restaurant where people would fake a cough if I lit up, I would blow the smoke at them." Fischer has no patience with the antismokers. "I think people have the right to smoke. First, society hooked you -- it was very acceptable to smoke when I was eleven -- and then society changed its mind."

There are those who argue, of course, that smoking around nonsmokers was always rude. It was just not illegal. But in a sense, Fischer has a point. Even a few years ago, the present revolution in thinking and manners would have been unimaginable. America has always -- always -- smoked. In 1492 Christopher Columbus discovered tobacco, among other things, when he became acquainted with the natives who "drank smoke." Many Southern colonists grew rich when Europe got hooked. It even helped finance their freedom. "If you can't send money," George Washington told the home front, "send tobacco."

For two centuries, tobacco remained a staple of American life. Cigarettes' image of sophistication curled through popular culture, especially the movies, which taught viewers that they could look like Lana Turner or Marlene Dietrich or Humphrey Bogart by lighting up. Edward R. Murrow interviewed guests through a cloud; tycoons fueled deals with cigars. Without smoking, it seemed, great detectives could not detect, writers could not write, lovers could not languish, heroes were deflated and vamps declawed.

Consider how the image has changed. One of the last smoking TV heroes was Don Johnson's ice-cool cop, Sonny Crockett, on Miami Vice, and they -- actor and character -- have conspicuously quit. One of the latest movie sirens to light up was Glenn Close in Fatal Attraction: the cigarette seemed a beacon of her madness. "For a long time, we saw Bette Davis' sitting at the bar smoking a cigarette as sexy," observes Robert Rosner of the Smoking Policy Institute in Seattle. "But then, as a society, we got close enough to smell her breath, and we realized it wasn't sexy at all." For society to have changed its mind so extensively, so quickly, marks the triumph of a crusade that actually began generations ago. As long as there have been smokers, there have been those who would snuff out the habit. A cigar, said Editor Horace Greeley more than a century ago, is a "fire at one end and a fool at the other." Justice Oliver Wendell Holmes passed along some memorable ammunition to 19th century schoolchildren:

Tobacco is a filthy weed,  
That from the devil does proceed;  
It drains your purse, it burns your clothes,  
And makes a chimney of your nose.

Concerns about health were always at the heart of the antismoking movement. Victorian women were warned that they would become sterile, grow a mustache or come down with tuberculosis if they dared to light up. Yet it was not until the Surgeon General's 1964 report linking cigarettes to cancer that health officials won their point. Warning labels appeared on packages after 1965, ads were pulled from television and radio in 1971, and four years later, Minnesota passed the first comprehensive clean-indoor-air law. Smoking continued to taper off throughout the 1970s. Even then, however, people were content to live and let

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smoke: the public spirit of laissez-faire survived every attempt by health officials to reclassify cigarettes as a hazard rather than a nuisance.

All that changed with Surgeon General C. Everett Koop's explosive report on the effects of passive, or involuntary, smoking, released in 1986. Koop's review, which coincided with a study by the National Academy of Sciences, reported that pregnant women who smoke are more likely to miscarry, while children of smokers suffer more bronchitis, pneumonia and other respiratory illnesses. The NAS study found that nonsmoking spouses of smokers face a 25% greater risk of contracting lung cancer than do spouses of nonsmokers. "It pulled together all that we had known for decades," says Mark Pertschuk of Americans for Nonsmokers' Rights, "and changed the question from Do we have enough evidence to take action? to Why aren't we doing more?"

Koop's report galvanized antismokers, who until then had limited their weaponry to burlesque wincing and conspicuous coughs. "After having had smoke blown in their faces for years when smokers ruled," says Rosner, "the asthmatics are finally having their day." And not only asthmatics. Opera Singer Marjorie Kahn was married to a smoker and "hated it. I screamed all the time. I'm divorced from him now." Kahn's attitude toward smokers remains unyielding. "If they want to kill themselves, they should do it in private and not pull down someone else with them."

Smokers know, of course, that it is not quite that simple. "You can't blame people for not wanting to breathe smoke," says Kay Michael, a reporter for the Charleston (W. Va.) Daily Mail, "but I wish the antismokers would try to understand that there is a physical addiction here. They seem to think we smoke just to mess up their air or something." Next month Surgeon General Koop will release a major report on nicotine that will detail the nature and seriousness of the physical addiction. Most experts now agree that cigarettes are every bit as addictive as drugs or alcohol. "Smoking a cigarette is like free-basing nicotine," says Dr. Joseph Frawley, chief of staff at Schick Shadel Hospital in Santa Barbara, Calif. "And for some people, it is virtually impossible to quit."

The new findings help explain behavior among smokers that would otherwise defy all reason. "If you tell cocaine users that if they don't stop, their leg will be cut off, most will stop," observes Dr. Jerome Jaffe, director of the Addiction Research Center at the National Institute on Drug Abuse. "After smokers have a lung operation, bypass surgery or a heart attack, about half continue smoking." A. Burton Bradley, who runs a stop-smoking clinic in Atlanta, has seen his share of hard-core addicts. "You would be amazed at the people who have had their larynx removed," he says, "and who put cigarettes in the tracheotomy hole in the hospital."

CNN Talk-Show Host Larry King, 54, smoked two packs a day from the age of 18. In February 1987 he had what he calls his "lucky" heart attack. He smoked on the way to the hospital. But after three days in intensive care, he says, he made a pact. "I said to myself, 'If you survive, you will never smoke again.'" He too is amazed at others who react differently. "When Martin Sheen visited me, he was smoking again after his heart attack, and I asked why. He said, 'It is my friend it is always there and doesn't pass judgment.' I said, 'Your friend is going to kill you.'"

Since nearly all smokers have tried and failed to give up their habit, they are well aware of the pain of withdrawal. Quitting is estimated to be a \$100 million-a-year industry, and yet very few smokers succeed on the first try, or

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even the second or third. The relapse rate is comparable to that of heroin; most do not last even a year. All across the country, as deadlines for still more laws approach, there are households full of people drinking lots of water, gnawing licorice, knitting feverishly, gripping pencils, breathing deeply, or gift-wrapping their cigarettes to make smoking as inconvenient as possible. Last week in New York City, calls to the American Lung Association from smokers asking about quitting techniques doubled.

Many would-be quitters discover that they cannot concentrate without their cigarettes; others get depressed, gain weight, or acquire a new addiction -- such as nicotine gum. "I know a guy who started chewing Nicorettes," says Cartoonist Mell Lazarus, "and now he smokes and chews Nicorettes." Beatrice Burstein, a justice of the New York Supreme Court, was a three-pack-a-day smoker for 50 years. She quit three years ago, though now she is hooked on the gum. "I can't sit on the bench and chew, so I chew in my chambers," she says. "I'm ashamed of the habit, so I tell lawyers I must chew because I just quit smoking. I even swim laps with a Nicorette in my mouth."

The incentive to quit is bound to grow over the next year. Signs that the antismoking momentum is building are everywhere. A bill is pending before Congress that would ban all print ads for tobacco products, an ambitious proposal in light of the fact that even in the absence of radio and television commercials, cigarettes are among the most heavily marketed consumer products. Senator John Chafee of Rhode Island proposes doubling the federal excise tax on a pack of cigarettes, to 32 cents. New Jersey Senator Bill Bradley, a founder of Athletes Against Tobacco, wants to end cigarette companies' eligibility to claim advertising costs as a tax-deductible business expense.

In time, as the laws and the public pressure become overpowering, some holdout smokers may finally find the willpower to lay down their packs for good. How many remains to be seen. "There is one school of thought that says we are now down to the hard-core smokers -- the mild smokers have dropped off," says Adele Paroni of the American Cancer Society. "But there is another school of thought that says the percentage will just continue to decline to nearly zero." In the meantime, the war goes on. And since even wars have rules, the best short-term hope is that sanctimonious nonsmokers will learn sympathy, and adamant smokers will learn courtesy, and an air of understanding will ease the discomfort on both sides.

GRAPHIC: Picture 1, NO CAPTION, Illustrations for TIME by Arnold Roth; Picture 2, NO CAPTION, Illustrations for TIME by Arnold Roth; Picture 3, NO CAPTION, Illustrations for TIME by Arnold Roth; Picture 4, NO CAPTION, Illustrations for TIME by Arnold Roth; Picture 5, NO CAPTION, Illustrations for TIME by Arnold Roth

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